

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 99-0554 AGI
ADJUSTED GROSS INCOME TAX
FOR TAX PERIODS: 1998

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Issues

Adjusted Gross Income Tax: Imposition

Authority: IC 6-3-2-1, 26 U.S.C.A. Sec. 62, IC 6-8.1-5-1(b), 45 IAC 3.1-1-4.

Taxpayer protests the imposition of the adjusted gross income tax.

Statement of Facts

Taxpayers are a husband and wife who completed their 1998 IT-40 and claimed that they had no Federal Adjusted Gross Income Tax to report at Line 1. As a consequence, Taxpayers reported no Indiana Adjusted Gross Income. Taxpayers did, however, list their Indiana State Tax Withheld and Indiana County Tax Withheld on the form. Taxpayers deducted their personal exemptions from their Indiana Adjusted Gross Income and stated that they had negative income. Taxpayers claimed a refund of the taxes withheld. The Indiana Department of Revenue issued a refund check. Upon review, it was noted that the income reported did not comport with the submitted W-2 forms. The Indiana Department of Revenue computed Taxpayers' Indiana Adjusted Gross Income Tax liability based on the W-2 income and a proposed assessment was sent. Taxpayers protested the assessment.

Adjusted Gross Income Tax: Imposition

Discussion

An adjusted gross income tax is imposed upon all Indiana residents. IC 6-3-2-1. Taxpayers argue that they have no Indiana Adjusted Gross Income for 1998 and therefore do not owe any tax. Taxpayers note that the Indiana Code borrows some of its definitions from the Internal Revenue Code. For instance, "gross income" is defined at IC 6-3-1-8 as having the meaning :as defined by section 61(a) of the Internal Revenue Code." Section 61 (a) states in part:

Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items:

- (1) Compensation for services, including fees, commissions, fringe benefits, and similar items. . .

Taxpayers contend that since the word "wages" is not listed in Section 61, wages are not taxable. Therefore they did not enter their wages on the federal 1040 on the line titled "Wages, Tips, other Compensation." Following this erroneous logic, Taxpayers state that they had no Federal Adjusted Gross Income to enter on Line 1 of their IT-40 form.

The Indiana Tax Court has disposed with arguments that wages do not constitute income. In Thomas v. Indiana Department of Revenue, 675 N.E.2d 362 (Ind. Tax 1997), the Tax Court stated:

[e]ven assuming the validity of Thomas's legal framework, monetary payments made in exchange for labor are clearly severed from labor and received or drawn by the recipient for his separate use, benefit, or disposal.

In Snyder v. Indiana Department of Revenue , 723 N.E.2d 487 (Ind. Tax 2000), the Court specifically states at page 491 that "wages are income for purposes of Indiana's adjusted gross income tax."

Taxpayers also state that the Indiana IT-40 form requires that they "Enter your Federal Adjusted Gross Income from your federal return." Taxpayers contend that since they believe wages are not income, they had no Federal Adjusted Gross Income on their federal return to enter on that line of the IT- 40. The law requires that Taxpayers report the proper amount of tax due. IC 6-8.1-5-1. Taxpayers have a duty to follow the law. It is illogical to assume that Taxpayers can avoid this duty to report the proper amount of tax because they copied a line with erroneous information from their federal 1040. Further, taxpayers who make false statements on a tax return with intent to evade the tax can be prosecuted for a Class D felony. IC 6-3-6-11.

Finding

Taxpayers' protest is denied.

